

Regional Water Quality Control Plant

Operated by the City of Palo Alto

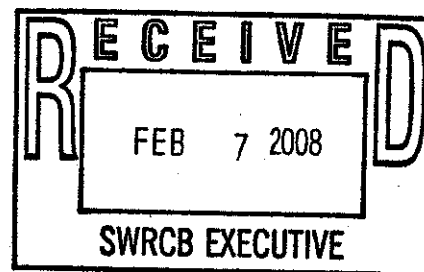
for the East Palo Alto Sanitary District,
Los Altos, Los Altos Hills, Mountain View,
Palo Alto, and Stanford

2/19/08 BdWrkshp Item 10
Water Quality Enf. Policy
Deadline: 2/7/08 by 12 p.m.



February 6, 2008

Jeanine Townsend, Clerk to the Board
State Water Resources Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: Water Quality Enforcement Workshop – 2/20/08

Dear Ms. Townsend:

Thank you for the opportunity to comment on the State Water Board's proposed revisions to its Water Quality Enforcement Policy. The City of Palo Alto operates a regional wastewater treatment facility that discharges an average of 25 million gallons per day (MGD) of treated wastewater to Lower South San Francisco Bay. As a shallow water discharger, our facility is required to meet very stringent effluent limits for conventional and toxic pollutants. Very infrequently, exceedances of some limits have occurred that have subjected us to imposition of Minimum Mandatory Penalties (MMPs). Although we strive at all times for full compliance, on those occasions where penalties were necessary we have valued the opportunity to utilize the Supplemental Environmental Project (SEP) process to fund important projects that promoted stewardship of our local watersheds and San Francisco Bay.

The following are two examples of payment SEPs that we have funded:

- In 2002, we paid \$3,000 to partially fund the construction of interpretive panels along San Francisquito Creek in El Palo Alto park. The panels recounted the ecological and human history of the watershed, as well as describing the recent efforts to preserve and restore San Francisquito Creek.
- In 2004, we paid \$15,000 to help establish a volunteer monitoring and outreach program at four locations on Stevens Creek through the Stevens Creek/Permanente Watershed Council. The funds were used to purchase a hand-held water quality parameter field probe, a GPS device, and "catch and release" signage for fishermen.

While we affirm the State Water Board's efforts to improve the approach to setting enforcement priorities and responding to violations through the proposed revisions to the Enforcement Policy, we are concerned that the changes to the Policy provisions addressing SEPs could preclude our ability to fund SEPs in the future. Our greatest concern is the Nexus Criteria enumerated on page 45 of the draft revised Policy. The

draft revised Policy states that the requisite nexus between a SEP and a violation exists "only if the project remediates or reduces the probable overall environmental or public health risks to which the violation at issue contributes". This expression of the nexus requirement for a SEP is problematic, given that most violations experienced by dischargers are relatively minor (e.g. instantaneous positive chlorine residual, coliform excursion). These types of violations, for which quantifiable adverse water quality effects are very unlikely to occur, are those for which SEPs are most appropriate. It is likely that neither of the two SEPs described above would have been approved had they been required to meet the proposed nexus requirement.

The SEP section of the draft revised Policy should not preclude the implementation of a SEP in circumstances where satisfaction of the nexus requirement quoted above is not possible. The descriptions of geographic nexus, category nexus, and beneficial use nexus on page 45, with the requirement that at least one of these criteria be met by the SEP, are sufficient to ensure that there is a nexus between the violation and the SEP. We suggest that the introductory paragraph to the Nexus Criteria section be modified as follows:

There must be a nexus between the violation(s) and the SEP. In other words there must be a relationship between the nature or location of the violation and the nature or location of the proposed project. ~~A nexus exists only if the project remediates or reduces the probable overall environmental or public health impacts or risks to which the violation at issue contributes, or if the project is designed to reduce the likelihood that similar violations will occur in the future.~~ A SEP that does not meet one of the following criteria should not be approved. Projects meeting more than one of the criteria should receive extra consideration.

Thank you very much for your consideration of these comments.

Best regards,



Phil Bobel, Manager
Environmental Compliance Division